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December 4, 2020

Via ECF

The Honorable Judge Kiyo A. Matsumoto
United States Courthouse
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: Agudath Israel of America, et al. v. Cuomo, No. 20-cv-04834 (E.D.N.Y.)(KAM)(RML)

Dear Judge Matsumoto:

This Office represents Governor Andrew M. Cuomo, the defendant in the above-referenced matter. I write in response to the Court's order of December 1, 2020 directing the parties to inform the Court of their positions on Plaintiffs' motion for an injunction pending appeal given the United States Supreme Court's November 25, 2020 order granting in part Plaintiffs' application for injunctive relief, which "enjoin[s]" the Governor "from enforcing Executive Order 202.68's 10- and 25- person occupancy limits on applicants, including Agudath Israel of America's current New York-based affiliates, pending disposition of the appeal in the United States Court of Appeals for the Second Circuit and disposition of the petition for a writ of certiorari, if such writ is timely sought." *Agudath Israel of Am. v. Cuomo*, 20A90. The Supreme Court's injunction "shall terminate automatically" if "the petition for writ of certiorari be denied," or, "[i]n the event the petition for writ of certiorari is granted, the order shall terminate upon the sending down of the judgment of th[e] Court." *Id.*

The parties jointly request that Plaintiffs' motion be held in abeyance pending the resolution of Plaintiffs' expedited appeal from this Court's denial of Plaintiffs' application for a preliminary injunction. Plaintiffs' motion would thus be deferred until a decision on the appeal is issued by the Second Circuit and, if a writ of certiorari is timely sought, until the Supreme Court either denies certiorari or sends down judgment of the Court after granting certiorari. It is Governor Cuomo's view that once Plaintiffs' appeal is resolved, their motion for an injunction pending appeal will be moot and should be withdrawn.

Thank you for Your Honor's consideration of this matter.

Respectfully submitted,

/S/

Todd A. Spiegelman
Assistant Attorney General

cc: All Counsel (via ECF)